

1 Alan A. Graves, SBN 243076
2 Namrta D. Shah, SBN 326016
3 NEIL, DYMOTT, FRANK,
4 MCCABE & HUDSON
5 A Professional Law Corporation
110 West A Street, Suite 1200
San Diego, CA 92101-3711
P 619.238.1712
F 619.238.1562

6 Attorneys for Defendant
7 COSTCO WHOLESALE CORPORATION

8 **DISTRICT COURT OF THE UNITED STATES**
9 **FOR THE STATE OF CALIFORNIA**
10 **CENTRAL DISTRICT, EASTERN DIVISION**

11 KATHRYN JOHNSON, an
12 individual,
13 Plaintiff,
14 vs.
15 COSTCO WHOLESALE
16 MEMBERSHIP, INC., a California
17 corporation; and DOES 1 through 20
18 inclusive,
Defendants.

CASE NO.

Superior Court Case No.: CVRI2200636

**DEFENDANT COSTCO
WHOLESALE CORPORATION'S
NOTICE OF REQUEST FOR
REMOVAL**

Dept:
Judge: Honorable
Filed: 02/15/2022
Trial Date: TBD

19 **TO: THE CLERK AND HONORABLE JUDGES OF THE UNITED STATES**
20 **DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA**

21 Pursuant to 28 U.S.C. §§1332, 1441 AND 1446, Defendant COSTCO
22 WHOLESALE CORPORATION ("COSTCO") removes this action to this Court from
23 the Superior Court of California, County of Riverside, Riverside District – Civil. In
24 support of this Notice of Removal, COSTCO respectfully states:

25 **STATE COURT ACTION**

26 1. Plaintiff KATHRYN JOHNSON ("Plaintiff") commenced this action on
27 or about February 15, 2022, in the Superior Court of California, County of Riverside,
28 Riverside District – Civil, filing the Summons and Complaint where it was assigned

1 Case No. CIVRI2200636. *See* Cal. Code Civ. P. 411.10. A copy of the Summons and
2 Complaint are attached hereto as Exhibit “A”.

3 2. Defendant COSTCO was served with the Summons and Complaint on
4 February 18, 2022. (Declaration of Alan B. Graves in Support of COSTCO’S Notice
5 of Removal (“Graves Decl.”.) ¶ 3.)

6 3. Plaintiff subsequently filed an Amendment to the Complaint on April 1,
7 2022, correcting the name of defendant. A copy of the Amendment to the Complaint is
8 attached hereto as Exhibit “B”.

9 4. Defendant COSTCO filed an Answer to the Complaint for Damages on
10 April 15, 2022. A copy of the Answer is attached hereto as Exhibit “C”. Defendant
11 also sent plaintiff a Request for Statement of Damages. A Copy of the Request for
12 Damages is attached hereto as Exhibit “D”. No further proceedings in this matter have
13 been held in Superior Court.

14 5. Plaintiff’s Complaint alleges causes of action for Negligence and Premises
15 Liability. (Complaint.) The Complaint did not specify a specific amount of damages.
16 Plaintiff provided a Statement of Damages sent to Defendant on April 19, 2022. A
17 Copy of the Statement of Damages is attached hereto as Exhibit “E”. (“Graves Decl. ¶
18 7.)

19 6. The Statement of Damages provides plaintiff is seeking special damages
20 of \$160,512.00 and general damages of \$202,036.00 (Statement of Damages.)

21 **GROUND FOR REMOVAL: DIVERSITY OF CITIZENSHIP**

22 7. This action is removable under 28 U.S.C. § 1441(a) and (b) because the
23 Court has original jurisdiction under 28 U.S.C. § 1332. Diversity jurisdiction exists
24 because the parties are completely diverse and the amount in controversy exceeds
25 \$75,000. Finally, this Notice is timely filed, and all other procedural requirements are
26 met.

27 ///

28 ///

Complete Diversity of Citizenship

8. Plaintiff Kathryn Johnson is a resident of California. Upon information and belief, she is a citizen of California. On her Complaint she provides she is a resident of the city of Lake Elsinore, County of Riverside, State of California. (Graves Decl. ¶ 6.)

9. COSTCO is, and at all times relevant was, a Washington corporation with its principal place of business in Washington. (Graves Decl. ¶¶ 2 and 5.) COSTCO is thus a citizen of Washington. *See* 28 U.S.C. § 1332(c)(1).

10. Because Plaintiff is a citizen of a different state than Defendant, complete diversity of citizenship exists between the parties for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

Amount in Controversy

11. The Court should conclude based on a preponderance of the evidence that Plaintiff's claims involve an amount in controversy in excess of \$75,000, exclusive of interest and costs. A removing defendant may make the requisite showing that Section 1332's jurisdictional threshold of \$75,000 is satisfied by either (1) demonstrating that it is facially apparent from the complaint that the claims likely exceed \$75,000 or (2) setting forth facts in the notice of removal that support a finding of the requisite amount under a preponderance of evidence standard. *See Guglielmina v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 16 2007). By the statements contained in this Notice of Removal, COSTCO does not concede that Plaintiff is entitled to any damages.

12. Here, Plaintiff has alleged in her Statement of Damages "special damages of \$160,512.00 and general damages of \$202,036.00" (Statement of Damages.) Thus, it is facially apparent from the Statement of Damages that Plaintiff has alleged damages which greatly exceeds the amount in controversy threshold of \$75,000. This Court therefore has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

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1 **ACTION REMOVABLE**

2 13. This action is removable to this Court under 28 U.S.C. § 1441 because this
3 Court would have had original jurisdiction over Plaintiff's claims had Plaintiff filed the
4 action initially in federal court. This Court is the district court of the United States for
5 the district and division "embracing the place where [the state court] action is pending,"
6 and is therefore the appropriate court for removal. 28 U.S.C. § 1441(a).

7 14. This Notice is filed with the Court within thirty (30) days after receipt by
8 COSTCO of the Statement in Damages, in accordance with 28 U.S.C. § 1446(b).

9 **PLEADINGS FILED**

10 15. Copies of all process and pleadings filed in this case and found in the files
11 of the Superior Court of the State of California for San Bernardino County are attached
12 hereto and consist of the Summons and Complaint, Amendment to the Complaint,
13 Answer to Complaint.

14
15 Dated: May 16, 2022

NEIL, DYMOTT, FRANK, MCCABE & HUDSON,
A Professional Law Corporation

16
17 By: /s/Alan B. Graves
18 Alan B. Graves
19 Namrta D. Shah
20 Attorneys for Defendant COSTCO
21 WHOLESALE CORPORATION
22
23
24
25
26
27
28

EXHIBIT A

Electronically FILED by Superior Court of California, County of Riverside on 02/15/2022 02:01 PM
Case Number CVRI2200636 0000012003378 - W. Samuel Hamrick Jr., Executive Officer/Clerk of the Court By Alyssa Polit, Clerk

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

COSTCO WHOLESALE MEMBERSHIP, INC., a California corporation, et al.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

KATHRYN JOHNSON, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Riverside Historic Courthouse
4050 Main Street,
Riverside, CA 92501

CASE NUMBER:
(Número del Caso):

CVRI 2200636

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jennifer C. Jones, Jones Legal, Inc., 3637 Arlington Avenue, Suite D Riverside, CA 92506, 951-742-7213

DATE: 02/15/2022
(Fecha)

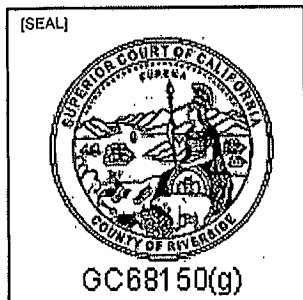
Clerk, by
(Secretario)

Alyssa Polit

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

A. Polit



NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

Costco Wholesale Membership Inc. - a California Corporation

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

Electronically FILED by Superior Court of California, County of Riverside on 02/15/2022 02:01 PM
Case Number CVRI2200636 0000012003375 - W. Samuel Hamrick Jr., Executive Officer/Clerk of the Court By Alyssa Polit, Clerk

Jennifer C. Jones (State Bar No. 240564)
JONES LEGAL, Inc.
3637 Arlington Avenue, Suite D
Riverside, California 92506
TEL (951) 742-7213
FAX (951) 742-7293
E-mail: Jennifer@JonesLegalTeam.com

Attorney for Plaintiff **KATHRYN JOHNSON**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE – HISTORIC COURTHOUSE**

KATHRYN JOHNSON, an individual,
Plaintiff,

v.

COSTCO WHOLESALE MEMBERSHIP,
INC., a California corporation; and DOES 1
through 20, inclusive,
Defendants.

Case No.: **CVRI 2200636**
{Unlimited}

COMPLAINT FOR DAMAGES

- (1) **PREMISES LIABILITY;**
- (2) **NEGLIGENCE;**
- (3) **NEGLIGENT HIRING, RETENTION,
TRAINING AND SUPERVISION**

[DEMAND FOR JURY TRIAL]

Plaintiff KATHRYN JOHNSON complains of Defendant COSTCO WHOLESALE MEMBERSHIP, INC., and DOES 1 through 20 (collectively, "DEFENDANTS") as follows:

GENERAL ALLEGATIONS

1. Plaintiff KATHRYN JOHNSON ("JOHNSON" or "Plaintiff JOHNSON") is a resident of the City of Lake Elsinore, County of Riverside, State of California.

2. Plaintiff JOHNSON is informed and believes and thereon alleges that DEFENDANTS are, and at all times herein mentioned was and is a California Corporation licensed and incorporated in the State of California, and doing business within the City of Lake Elsinore, County of Riverside, State of California.

1 3. DEFENDANT has a COSTCO WHOLESALE MEMBERSHIP, INC., store
2 located in the City of Lake Elsinore, County of Riverside, State of California.

3 4. The true names, residences, and capacities, whether individual, corporate,
4 associate, or otherwise of the defendants named herein as DOES 1 through 20, inclusive, are
5 presently unknown to Plaintiff JOHNSON who therefore sues said defendants by such fictitious
6 names. Plaintiff JOHNSON is informed and believes and thereon alleges that each such DOE
7 Defendant is in some manner responsible for the damages sustained by Plaintiff JOHNSON as
8 hereinafter set forth and as soon as Plaintiff JOHNSON has ascertained the facts linking these
9 Defendants to the causes of action and fact situations set forth in this complaint, Plaintiff
10 JOHNSON will amend this pleading to show such true names, capacities, and manner of
11 responsibility.

12 5. Plaintiff JOHNSON is informed and believes and thereon alleges that at all times
13 relevant to this action, each defendant, including those fictitiously named, was the agent, servant,
14 employee, partner, joint venture, lender or surety of the other defendants and was acting within the
15 scope of said agency, employment, partnership, venture, or suretyship, with the knowledge and
16 consent or ratification of each of the other defendants in doing the things alleged herein.

17 **FACTS COMMON TO ALL CAUSES OF ACTION**

18 6. Plaintiff JOHNSON refers to and incorporates the allegations of paragraphs 1
19 through 5 inclusive, as though set forth in full.

20 7. This Complaint arises from events occurring on June 17, 2021, when Plaintiff
21 JOHNSON was injured while shopping at COSTCO WHOLESALE MEMBERSHIP STORE,
22 Lake Elsinore, in Riverside County, California.

23 8. Plaintiff JOHNSON was shopping as a guest at COSTCO WHOLESALE
24 MEMBERSHIP STORE, Lake Elsinore when she slipped and fell from chicken grease, from a
25 rotisserie chicken, that was left on the floor for a substantially long time.

26 9. Plaintiff JOHNSON ascertained that it was liquid from a rotisserie chicken due to
27 the smell and location where she came in contact with the liquid, and she ascertained that the liquid
28

1 had negligently been left on the floor for a long time due to the temperature of it when she fell in
2 it due to DEFENDANT'S negligence.

3 10. As a result of DEFENDANT'S negligence, my client sustained pain in the neck,
4 right leg and thigh, elbows, lower back, hands, and wrist.

5 11. Due to DEFENDANT'S negligence that caused my client to have this accident, my
6 client was in deep shock, disoriented and scared. Immediately following the incident, my client
7 sought medical attention at Loma Linda Medical Center in Murrieta

8 **FIRST CAUSE OF ACTION**

9 **PREMISES LIABILITY**

10 (Against DEFENDANTS and DOES 1 through 20)

11 12. Plaintiff JOHNSON refers to and incorporates the allegations of paragraphs 1
12 through 11 inclusive, as though set forth in full.

13 13. DEFENDANT owed Plaintiff JOHNSON a duty of care in the manner in which it
14 maintained its store for hazardous conditions.

15 14. The lack of cleanliness and allowing liquid to lie stagnant in a heavily populated
16 area in DEFENDANT'S store caused a hazardous condition.

17 15. DEFENDANT breached that duty by negligently monitoring the store for
18 hazardous conditions, and NOT notifying Plaintiff JOHNSON and other invitees about the
19 existence of the hazardous condition and taking reasonable steps to abate the hazardous conditions.

20 16. As a direct and proximate result of the DEFENDANTS' conduct, Plaintiff
21 JOHNSON sustained injuries to her neck, right leg and thigh, elbows, lower back, hands, and wrist.
22 In addition to her physical injuries, because of the accident, JOHNSON was in deep shock,
23 disoriented, scared and traumatized.

24 17. The injuries resulting from the DEFENDANTS' negligence were so severe that
25 Plaintiff JOHNSON, immediately following the incident of June 17, 2021, sought medical
26 attention at Lima Linda Medical Center in Murietta, California.

27 18. Plaintiff JOHNSON continues to require medical treatment due to
28 DEFENDANT'S negligence in making sure its premises was safe for its visitors.

1 19. Plaintiff JOHNSON will require future medical treatment as a result of her injuries
2 due to DEFENDANT'S negligence.

3 20. All of the injuries caused by DEFENDANTS have caused and continue to cause
4 Plaintiff JOHNSON mental anguish, and pain and suffering.

5 **SECOND CAUSE OF ACTION**

6 **NEGLIGENCE**

7 (Against DEFENDANTS and DOES 1 through 20)

8 21. Plaintiff JOHNSON refers to and incorporates the allegations of paragraphs 1
9 through 20 inclusive, as though set forth in full.

10 22. DEFENDANTS were negligent in the maintenance of its store.

11 23. DEFENDANTS were negligent in not cleaning up the hazardous liquid on the floor
12 in a timely manner as to not cause an accident to its patrons.

13 24. DEFENDANTS knew, or through the exercise or reasonable care, should have
14 known, that there was liquid on the floor as it is a very common hazard in any store. Further, the
15 area is heavily populated with visitors and staff alike.

16 25. DEFENDANTS failed to protect against harm from the improper cleaning up of
17 hazardous liquids from the floor.

18 26. As a direct and proximate result of the DEFENDANTS' conduct, Plaintiff suffered
19 injuries. As a result of your client's negligence, Plaintiff JOHNSON sustained serious pain in her
20 neck, right leg, thigh, elbows, lower back, hands, and wrist.

21 23. Because of the accident, my client was in deep shock, disoriented and scared.
22 Immediately following the incident, my client sought medical attention at Loma Linda Medical
23 Center in Murrieta.

24 **THIRD CAUSE OF ACTION**

25 **NEGLIGENT HIRING, RETENTION, TRAINING AND SUPERVISION**

26 (Against DEFENDANT and DOES 1 through 20)

27 24. Plaintiff JOHNSON refers to and incorporates the allegations of paragraphs 1
28 through 23 inclusive, as though set forth in full.

1 25. Plaintiff JOHNSON is informed and believes and thereon alleges that
2 DEFENDANTS authorized, ratified, and approved the conduct of its employees.

3 26. Plaintiff JOHNSON is informed and believes and thereon alleges that
4 DEFENDANTS knew, or in the exercise of reasonable diligence should have known of the
5 dangerous hazards that come with having a rotisserie chicken warming incubator, and that the
6 operation of such would require their employees to be aware, monitor and clean the area
7 frequently; however, DEFENDANTS' employees were incompetent, unqualified and unfit to
8 perform the duties for which they were employed, and that an undue risk to persons such as
9 Plaintiff JOHNSON would exist because of employees' lack of training and supervision.

10 27. Plaintiff JOHNSON is further informed, believes, and thereupon alleges that
11 DEFENDANTS knew, or in the exercise of reasonable diligence should have known that its
12 employee lacked proper training and skill to properly carry out the duties of cleaning up the floor
13 of the store before someone had a horrible accident.

14 27. The failure of DEFENDANTS to adequately hire, train and supervise its employee
15 was a proximate cause of Plaintiff JOHNSON'S injury because Plaintiff JOHNSON would not
16 have needed medical attention due to a slip and serious fall on chicken grease, on the floor, of a
17 very popular corporate membership store.

18 28. DEFENDANT'S negligent hiring, training and supervision of its employees was a
19 substantial factor in causing Plaintiff JOHNSON'S injury.

20 29. As a direct and proximate result of the DEFENDANTS' conduct, Plaintiff
21 JOHNSON sustained injuries to her neck, right leg and thigh, elbows, lower back, hands, and wrist.
22 Because of the accident, my client was in deep shock, disoriented, scared and traumatized.
23 Immediately following the incident, my client sought medical attention at Loma Linda Medical
24 Center in Murrieta.

25 30. All of the injuries caused by DEFENDANTS have caused and continue to cause
26 Plaintiff JOHNSON mental anguish, and pain and suffering.

27 //

28 //

PRAYER FOR RELIEF

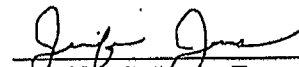
Wherefore, Plaintiff requests judgment against Defendants as follows:

1. For past and future non-economic damages in the amount to be proven at trial;
2. For past and future economic damages in the amount to be proven at trial; and
3. For such other and further relief as the Court may deem just and proper.

Dated: February 15, 2022

JONES LEGAL, Inc.

By:


Jennifer C. Jones, Esq.

Attorney for Plaintiff, KATHRYN
JOHNSON

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- ☐ BANNING 311 E. Ramsey Street, Banning, CA 92220
☐ BLYTHE 265 N. Broadway, Blythe, CA 92225
☐ CORONA 505 S. Buena Vista, Rm. 201, Corona, CA 92882
☐ HEMET 680 N. State St., Hemet, CA 92343

- ☐ MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553
☐ MURRIETA 30766-D Auld Rd., Ste. 1226, Murrieta, CA 92563
☐ PALM SPRINGS 3255 Tahquitz Canyon Way, Palm Springs, Ca 92262
☒ RIVERSIDE 4050 Main St., Riverside, CA 92501

RI-CI030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) Jennifer C. Jones (SBN: 240564) Jones Legal, Inc. 3637 Arlington Avenue, Suite D Riverside, CA 92506 TELEPHONE NO. (951) 742-7213 FAX NO. (Optional) (951) 742-7293 E-MAIL ADDRESS (Optional): Jennifer@JonesLegalTeam.com ATTORNEY FOR (Name): Kathryn Johnson		FOR COURT USE ONLY
PLAINTIFF/PETITIONER: Kathryn Johnson DEFENDANT/RESPONDENT: Costco Wholesale Corporation, et al.		
Hearing Date: 08/16/2022	Time: 8:30 a.m.	CASE NUMBER: CVRI2200636 Department: 1
AMENDMENT TO <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> CROSS COMPLAINT (INCORRECT NAME)		

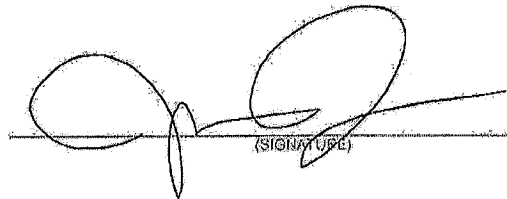
INCORRECT NAME

Plaintiff(s) * having designated a defendant in the complaint * by the incorrect name of Costco Wholesale Membership, Inc. and having discovered the true name of the said defendant to be Costco Wholesale Corporation hereby amends the complaint by inserting such true name in place and stead of such incorrect name wherever it appears in said complaint.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

03/29/22
 (DATE)

Jennifer C. Jones
 (TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY MAKING DECLARATION)


 (SIGNATURE)

ORDER

Proper cause appearing, plaintiff(s) * allowed to file the above amendment to the complaint.*

 (DATE)

 (JUDGE OF THE SUPERIOR COURT)

*Complaint can also mean a cross-complaint. Plaintiff means a person who files a complaint or cross-complaint (C.C.P. 426.10).

Page 1 of 1

PROOF OF SERVICE

JOHNSON v. COSTCO WHOLESALE CORPORATION, et al.

Riverside County Superior Court Case No. CVRI2200636

**STATE OF CALIFORNIA,
COUNTY OF RIVERSIDE**

I am employed in the county of aforesaid. I am over the age of eighteen years and not a party to the within action. My business address is: JONES LEGAL, Inc., 3637 Arlington Ave., Suite D, Riverside, CA 92506.

On **April 1, 2022**, I served the foregoing document described as:

AMENDMENT TO COMPLAINT (INCORRECT NAME)

☐ By Mail:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, CA in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing this affidavit.

On the interested parties in this action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully paid, in the United State mail addressed as follows:

☒ By Electronic Transmission Only:

By emailing the document(s) to the persons at the email address(es). Due to the Coronavirus (Covid-19) pandemic, this office will be working remotely, is not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

See Attached Service List.

☐ By Overnight Delivery:

I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.

☒ State:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and was executed on **April 1, 2022**, at Riverside, California.

Ameli Cobarrubia

SERVICE LIST

Johnson v. Costco Wholesale Corporation, et al.

Riverside County Superior Court Case No. CVRI2200636

Alan Graves

NEIL, DYMOTT, FRANK, MCCABE & HUDSON APLC

110 West A Street, Suite 1200

San Diego, CA 92101

T: (619) 238-1712

F: (619) 238-1562

Email: agraves@neildymott.com

Attorney for Defendant,

COSTCO WHOLESALE

CORPORATION

Francine Iriarte

Email: firiarte@neildymott.com

Namrta Shah

Email: nshah@neildymott.com

EXHIBIT C

Electronically FILED by Superior Court of California, County of Riverside on 04/15/2022 10:47 AM
Case Number CVRI2200636 0000018186392 - W. Samuel Hamrick Jr., Executive Officer/Clerk of the Court By Alyssa Polit, Clerk

Alan A. Graves, SBN 243076
Namrta D. Shah, SBN 326016
NEIL, DYMOTT, FRANK,
MCCABE & HUDSON
A Professional Law Corporation
110 West A Street, Suite 1200
San Diego, CA 92101-3711
P 619.238.1712
F 619.238.1562

Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

SUPERIOR COURT OF CALIFORNIA

COUNTY OF RIVERSIDE, HISTORIC COURTHOUSE

KATHRYN JOHNSON, an individual,

Plaintiff,

vs.

COSTCO WHOLESALE MEMBERSHIP,
INC., a California corporation; and DOES 1
through 20 inclusive,

Defendants.

CASE NO. CVRI2200636

**DEFENDANT COSTCO WHOLESALE
CORPORATION'S ANSWER TO
PLAINTIFF'S COMPLAINT**

[IMAGED]

Dept: 1
Judge: Honorable Craig Riemer
Filed: 02/15/2022
Trial Date: TBD

COME NOW, Defendant, COSTCO WHOLESALE CORPORATION, and answers the
complaint on file herein as follows:

I.

GENERAL DENIAL

Pursuant to the provisions of Section 431.30 of the California Code of Civil Procedure, this
answering defendant denies generally and specifically each, every and all of the allegations in said
complaint, and the whole thereof, including each and every purported cause of action contained
therein. This answering defendant further denies that plaintiff has or will sustain damages in the
amount alleged or in any amount whatsoever.

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II.

AFFIRMATIVE DEFENSES

**AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED
AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

That at all times and places set forth in the complaint, plaintiff failed to exercise ordinary care on her own behalf, which negligence and carelessness was a substantial factor of some portion, up to and including the whole thereof, of the injuries and damages complained of in this action. Plaintiff's recovery therefore against this answering defendant should be barred or reduced according to principles of comparative negligence.

**AS AND FOR A SECOND, SEPARATE AND AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED
AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

At all times and places set forth in the complaint, parties' defendant, other than this answering defendant, failed to exercise ordinary care on their own behalf, which negligence and carelessness was a substantial factor of some portion, up to and including the whole thereof, of the injuries and damages complained of by plaintiffs in this action. The fault, if any, of this answering defendant should be compared with the fault of the other defendants and damages, if any, should be apportioned among the defendants in direct relation to each defendant's comparative fault. This answering defendant should be obligated to pay only such damages, if any, which are directly attributable to its percentage of comparative fault. To require this answering defendant to pay any more than its percentage of comparative fault violates the equal protection and due process clauses of the Constitution of the United States and the Constitution of the State of California.

**AS AND FOR A THIRD, SEPARATE AND AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED
AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

This answering defendant denies that it was negligent in any fashion with respect to the damages, losses, injuries, and debts claimed by the plaintiff in her complaint on file herein. However, if this answering defendant is found to have been negligent (which supposition is denied and merely stated for the purpose of this affirmative defense), then this answering defendant provisionally alleges that its negligence is not the sole and substantial factor of the resultant damages, losses and injuries

1 alleged by plaintiff and that the damages awarded to plaintiff, if any, are to be apportioned according
 2 to the respective fault of the parties, persons, and entities, or their agents, servants, and employees who
 3 contributed to and/or caused said resultant damages as alleged, according to proof presented at the
 4 time of trial. That to assess any greater percentage of fault and damages against this answering
 5 defendant in excess of its percentage of fault would be a denial of equal protection and due process
 6 which are guaranteed by the constitutions of the State of California and the United States, respectively.

7 **AS AND FOR A FOURTH, SEPARATE AND AFFIRMATIVE**
 8 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
 9 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

10 That this answering defendant denies any wrongdoing, negligence, carelessness, fault or
 11 liability on its part. However, should it be determined that this answering defendant is liable, then this
 12 answering defendant further alleges that plaintiff also contributed to her own alleged injuries, losses
 13 and damages, and by virtue thereof, this answering defendant asks that any judgment entered against
 14 it be proportionately reduced to the extent that plaintiff's negligence legally contributed to the
 15 happening of the subject incident and to any injuries, losses or damages sustained by plaintiff, if any
 16 there were. That to assess any greater percentage of fault and damages against this answering
 17 defendant in excess of its percentage of fault would be a denial of equal protection and due process
 18 which are guaranteed by the constitutions of the State of California and the United States, respectively.

19 **AS AND FOR A FIFTH, SEPARATE AND AFFIRMATIVE**
 20 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
 21 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

22 That any injuries or damages which may have been sustained by plaintiff were the legal result
 23 of the negligence of third parties. For this reason, if plaintiff has been damaged, aside from any
 24 reduction of damages attributable to her own negligence, the damages must be apportioned among the
 25 parties to this action in proportion to their respective degrees of fault.

26 **AS AND FOR A SIXTH, SEPARATE AND AFFIRMATIVE**
 27 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
 28 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

29 This answering defendant is not legally responsible for the acts and/or omissions of those
 30 defendants named herein as DOES 1 through 20.

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1 **AS AND FOR A SEVENTH, SEPARATE AND AFFIRMATIVE**
2 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
3 **AND BELIEVES AND THEREON ALLEGE AS FOLLOWS:**

4 The complaint and every purported cause of action therein fails to set forth facts sufficient to
5 state a cause of action.

6 **AS AND FOR AN EIGHTH, SEPARATE AND AFFIRMATIVE**
7 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
8 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

9 That as against this answering defendant, plaintiff's actions are barred by the applicable
10 statutes of limitation.

11 **AS AND FOR A NINTH, SEPARATE AND AFFIRMATIVE**
12 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
13 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

14 That the perils or dangers, if any, existing at the time of plaintiff's alleged injuries, if any,
15 were open and obvious and known to plaintiff who nevertheless conducted himself in such a manner
16 so as to expose himself to said perils and dangers, if any, and by so doing, assumed all the risks
17 attendant thereto.

18 **AS AND FOR A TENTH, SEPARATE AND AFFIRMATIVE**
19 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
20 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

21 The plaintiff has failed to exercise reasonable care and diligence to avoid loss and to minimize
22 damages and, therefore, plaintiff may not recover for losses which could have been prevented by
23 reasonable efforts on her own part, or by expenditures that might reasonably have been made.
24 Therefore, plaintiff's recovery, if any, should be reduced by the failure of the plaintiff to mitigate her
25 damages.

26 **AS AND FOR AN ELEVENTH, SEPARATE AND AFFIRMATIVE**
27 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
28 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

 That at no time or place set forth in the complaint, did any other defendant operate as the agent
 of this answering defendant.

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1 **AS AND FOR A TWELFTH, SEPARATE AND AFFIRMATIVE**
2 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
3 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

4 By virtue of plaintiff's unlawful, immoral, careless, negligent and other wrongful conduct,
5 plaintiff should be barred from recovering against this answering defendant by the equitable doctrine
6 of unclean hands.

7 **AS AND FOR A THIRTEENTH, SEPARATE AND AFFIRMATIVE**
8 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
9 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

10 Any recovery by plaintiff against this answering defendant is barred by *Privette v. Superior*
11 *Court* (1993) 5 Cal.4th 689, and its progeny.

12 **AS AND FOR A FOURTEENTH, SEPARATE AND AFFIRMATIVE**
13 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
14 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

15 Any alleged defect of the premises was open and obvious to plaintiff.

16 **AS AND FOR A FIFTEENTH, SEPARATE AND AFFIRMATIVE**
17 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
18 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

19 Any alleged defect of the premises was trivial as a matter of law.

20 **AS AND FOR A SIXTEENTH, SEPARATE AND AFFIRMATIVE**
21 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
22 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

23 The plaintiff has engaged in conduct with respect to the activities and/or property which are
24 the subject of the complaint, and by reason of said activities and conduct, is estopped from asserting
25 any claim for damages or seeking any other relief against this answering defendant.

26 **AS AND FOR A SEVENTEENTH, SEPARATE AND AFFIRMATIVE**
27 **DEFENSE, THIS ANSWERING DEFENDANT IS INFORMED**
28 **AND BELIEVES AND THEREON ALLEGES AS FOLLOWS:**

 The injuries and damages of which the plaintiff complains were legally caused or contributed
to by the acts of other defendants, persons and/or other entities. Said acts were an intervening,
supervening and superseding cause of the injuries and damages, if any, of which the plaintiff
complains, thus barring plaintiff from any recovery against this answering defendant.

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This answering defendant presently has insufficient knowledge or information upon which to form a belief as to whether it may have additional, as yet unknown, affirmative defenses. This answering defendant reserves the right to assert additional affirmative defenses in the event discovery indicates it would be appropriate.

Dated: April 15, 2022

By: /s/ Namrta D. Shah
 Alan B. Graves
 Namrta D. Shah
 Attorneys for Defendant COSTCO
 WHOLESALE CORPORATION

1 KATHRYN JOHNSON v. COSTCO WHOLESALE CORPORATION
2 Riverside Superior Court – Case No. CVRI220636

3 **PROOF OF SERVICE**

4 [Code Civ. Proc., §§ 1013A and 2015.5]

5 I, the undersigned, am employed in the county of San Diego, state of California. I am over the
6 age of 18 and not a party to the within action; my business address is 110 West A Street, Suite 1200,
7 San Diego, California, 92101 and my Email address is mmckee@neildymott.com.

8 On **April 15, 2022**, I caused to be served the document(s) described as follows:

- 9
 - 10 • **DEFENDANT COSTCO WHOLESALE CORPORATION'S ANSWER TO**
 - 11 **PLAINTIFF'S COMPLAINT; and**
 - 12 • **DEFENDANT COSTCO WHOLESALE CORPORATION'S DEMAND FOR**
 - 13 **STATEMENT OF DAMAGES**

14 on the parties in this action by placing a true copy in a sealed envelope addressed as follows:

15 **ATTORNEYS FOR PLAINTIFF**
16 **KATHRYN JOHNSON**

17 Jennifer C. Jones, (SBN 325472)
18 3637 Arlington Avenue, Suite D
19 Riverside, CA 92506
20 T: 951.742.7213 / F: 951.742.7293
21 Email: jennifer@joneslegalteam.com

- 22 ☐ **BY ELECTRONIC TRANSMISSION** - As follows: I personally sent to the noted
23 addressee's email addresses true and correct copies of the above-described documents.
- 24 ☒ **BY MAIL - As follows:** Complying with Code of Civil Procedure §1013(a) and (b) and 1013a
25 (3), I placed a true copy of each document in a sealed envelope. I am "readily familiar" with
26 the firm's practice of collection and processing correspondence for mailing. Under that practice
27 it would be deposited with the U.S. Postal Service on that same day with postage thereon fully
28 prepaid at San Diego, California in the ordinary course of business. The envelope was sealed
and placed for collection and mailing on this date following our ordinary practices. I am aware
that on motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the state of California, that the above is
true and correct. Executed on **April 15, 2022**, at San Diego, California.

/s/ Mona McKee
MONA MCKEE

EXHIBIT D

Electronically FILED by Superior Court of California, County of Riverside on 04/15/2022 10:47 AM
Case Number CVRI2200636 0000018186393 - W. Samuel Hamrick Jr., Executive Officer/Clerk of the Court By Alyssa Pollt, Clerk

Alan A. Graves, SBN 243076
Namrta D. Shah, SBN 326016
NEIL, DYMOTT, FRANK,
MCCABE & HUDSON
A Professional Law Corporation
110 West A Street, Suite 1200
San Diego, CA 92101-3711
P 619.238.1712
F 619.238.1562

Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE, HISTORIC COURTHOUSE

KATHRYN JOHNSON, an individual,

Plaintiff,

vs.

COSTCO WHOLESALE MEMBERSHIP,
INC., a California corporation; and DOES 1
through 20 inclusive,

Defendants.

CASE NO. CVRI2200636

**DEFENDANT COSTCO WHOLESALE
CORPORATION'S DEMAND FOR
STATEMENT OF DAMAGES**

[IMAGED]

Dept: 1
Judge: Honorable Craig Riemer
Filed: 02/15/2022
Trial Date: TBD

TO PLAINTIFF AND HER ATTORNEYS OF RECORD:

Defendant, COSTCO WHOLESALE CORPORATION, pursuant to Code of Civil Procedure section 425.11, hereby requests that Plaintiff provide a complete statement setting forth the nature and amount of damages being sought in the above-entitled action within fifteen (15) days of the service of this Request.

Dated: April 15, 2022

NEIL, DYMOTT, FRANK, MCCABE & HUDSON
A Professional Law Corporation

By: /s/ Namrta D. Shah
Alan B. Graves
Namrta D. Shah
Attorneys for Defendant COSTCO
WHOLESALE CORPORATION

EXHIBIT E

CIV-050

- DO NOT FILE WITH THE COURT -
- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Jennifer C. Jones (SBN: 240564) Jones Legal, Inc. 3637 Arlington Avenue, Suite D Riverside, CA 92506 ATTORNEY FOR (name): Kathryn Johnson		TELEPHONE NO.: (951) 742-7213	FOR COURT USE ONLY CASE NUMBER: CVRI2200636
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside 92501 BRANCH NAME: Riverside Historic Courthouse			
PLAINTIFF: Kathryn Johnson DEFENDANT: Costco Wholesale Corporation, et al.			
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			

To (name of one defendant only): **Costco Wholesale Corporation**
 Plaintiff (name of one plaintiff only): **Kathryn Johnson**
 seeks damages in the above-entitled action, as follows:

1. General damages

- | | AMOUNT |
|---|---------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ 206,036.00 |
| b. <input type="checkbox"/> Emotional distress | \$ |
| c. <input type="checkbox"/> Loss of consortium | \$ |
| d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only) | \$ |
| e. <input type="checkbox"/> Other (specify) | \$ |
| f. <input type="checkbox"/> Other (specify) | \$ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

- | | |
|--|--------------|
| a. <input checked="" type="checkbox"/> Medical expenses (to date) | \$ 28,912.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (present value) | \$ 73,100.00 |
| c. <input checked="" type="checkbox"/> Loss of earnings (to date) | \$ 58,500.00 |
| d. <input type="checkbox"/> Loss of future earning capacity (present value) | \$ |
| e. <input type="checkbox"/> Property damage | \$ |
| f. <input type="checkbox"/> Funeral expenses (wrongful death actions only) | \$ |
| g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only) | \$ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only) | \$ |
| i. <input type="checkbox"/> Other (specify) | \$ |
| j. <input type="checkbox"/> Other (specify) | \$ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. ☐ **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (specify) .. \$ _____
 when pursuing a judgment in the suit filed against you.

Date: **04/19/22**
Jennifer C. Jones

(TYPE OR PRINT NAME)

(Proof of service on reverse)


 (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

Page 1 of 2

PROOF OF SERVICE

[CCP § 1013b]

JOHNSON V. COSTCO WHOLESALE CORPORATION, ET AL.

Riverside Superior Court, Case Number: CVRI2200636

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am employed in the county of aforesaid. I am over the age of eighteen years and not a party to the within action. My business address is: JONES LEGAL, INC., 3637 Arlington Ave., Suite D, Riverside, CA 92506. My electronic service address is ameli@joneslegalteam.com.

On 4/19/2022, I served the foregoing document described as:

STATEMENT OF DAMAGES (PERSONAL INJURY OR WRONGFUL DEATH)

☐ By Mail:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, CA in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing this affidavit.

On the interested parties in this action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully paid, in the United States mail addressed as follows:

☒ By Electronic Transmission Only:

By emailing the document(s) to the persons at the email address(es). Due to the Coronavirus (Covid-19) pandemic, this office will be working remotely, is not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I have served the documents on the interested parties listed in the attached Service List.

☐ By Overnight Delivery:

I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.

☒ State:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and was executed on 4/19/2022, at Riverside, California.

Ameli Cobarrubia

SERVICE LIST

JOHNSON V. COSTCO WHOLESALE CORPORATION, ET AL.

Riverside Superior Court, Case Number: CVRI2200636

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Attorneys for Defendant,
COSTCO WHOLESALE
CORPORATION

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